

**THE PERMANENT JUDICIAL COMMISSION
OF THE GENERAL ASSEMBLY
OF THE PRESBYTERIAN CHURCH (U.S.A.)**

Sherry A. PHILLIPS.)	
Complainant/Appellant)	
)	
v.)	REMEDIAL CASE 209-4
)	
Presbytery of SO. KANSAS)	
Respondent/Appellee)	

This Case has come before this Commission on appeal from a decision of the Permanent Judicial Commission of the Synod of Mid-America (SPJC).

Pursuant to Book of Order, D-13.1200a, this Commission finds that it has jurisdiction, that the Appellant has standing to appeal, that the appeal was properly and timely filed, and that the appeal is in order.

In adopting amendments to the Form of Government and Rules of Discipline, the 208th General Assembly (1996) affirmed this Commission's request that all cases filed before the adoption of the amendments be adjudicated in accordance with the Rules of Discipline in effect. Therefore, we consider this case in accordance with the 1995-1996 version of the Rules of Discipline. All references in this decision shall be to the 1995-1996 Rules of Discipline.

HISTORY

This Case arises from a complaint filed by Ms. Sherry A. Phillips against the Presbytery of Southern Kansas with the PJC of the Synod of Mid America on August 30, 1995. In her complaint, as amended, Ms. Phillips alleges that the Presbytery "did not reverse the action of the presbytery Council's Sub-Committee on Staff Personnel implemented April 19, 1995, regarding

termination ..." of certain employees, alleging violation of certain of the Presbytery's personnel policies.

The SPJC, on the request of the motion of the Presbytery, ordered dismissal of the complaint on the grounds that the complaint fails to state a claim upon which relief can be granted and that Ms. Phillips failed to exhaust the remedies available to her. This order was granted without affording Ms. Phillips an opportunity to respond at either a pre-trial conference or a hearing.

SPECIFICATION OF ERROR

Specification of Error No. 1:

The Permanent Judicial Commission of the Synod of Mid-America erred by refusing Phillips a reasonable opportunity to be heard or to obtain or present evidence in connection with the issuance of its order dismissing the complaint.

This specification of error is not sustained.

The SPJC erred in failing to hold a pre-trial conference or a hearing, as required by D-6.1200b, thereby denying Ms. Phillips the opportunity to contest the motion to dismiss. However, this Commission has assumed jurisdiction of the Case and has provided the opportunity for both Ms. Phillips and the Presbytery to submit briefs and argue the appeal.

The complaint fails to satisfy the threshold requirements of D-6.1200a for the following reasons:

(a) The complaint did not state "the particular irregularity or delinquency including the date, place, and circumstances thereof", as required by D-6.0400b. The complaint nowhere states whether it involves an irregularity or a delinquency. It is ambiguous as to whether the alleged wrong involves the terminations or the action of the Presbytery in not assuming

jurisdiction over the matter. Finally, it lacks sufficient specificity to indicate precisely the action that is the source of the complaint.

(b) The complaint was not timely filed. D-6.0600 requires that a complaint be filed within three months after the irregularity occurred. The complaint states that the policy implementation complained about occurred on April 19, 1995. The latest it could have occurred is May 15, 1995, the date on which the termination letters were sent. May 31, the date on which the Presbytery declined to interfere with these actions, could not have been the date of an irregularity, since no action was taken on that date. In that the filing of the complaint occurred more than three months after May 15, it was not timely filed.

Notwithstanding the propriety of the issuance of the order, Ms. Phillips and her committee have reminded the church that fairness and adherence to established guidelines in the administering of personnel decisions within the church must be observed.

ORDER

IT IS THEREFORE ORDERED that the order of dismissal issued by the SPJC is affirmed.

IT IS FURTHER ORDERED that the Stated Clerk of the Synod of Mid-America report this decision to the Synod at its first meeting after receipt, that the Synod enter the full decision upon its minutes, and that an excerpt from those minutes showing entry of the decision be sent to the Stated Clerk of the General Assembly.

IT IS FURTHER ORDERED that the Stated Clerk of the Presbytery of Southern Kansas report this decision to the Presbytery at its first meeting after receipt, that the Presbytery enter the full decision upon its minutes, and that an excerpt from those minutes showing entry of the

decision be sent to the Stated Clerk of the General Assembly.

David Bridgman, member of the Commission from the Presbytery of Southern Kansas, took no part in the deliberations or decision of the case. D-4.0400b.

Dated this 9th day of February, 1997.